

REMARKS

Reconsideration of the present application is respectfully requested. Claims 2, 13, 14, 20-28 and 30 have been canceled. Claims 1, 3, 4, 15, 16, 29, 31 and 60 have been amended. Claims 61-66 are newly added. No new matter has been added.

After entry of this amendment, claims 1, 3-12, 15-19, 29 and 31-66 will be pending.

Request to Withdraw Finality of Office Action

Applicants respectfully request that in the interest of fairness, the finality of the present Office Action be withdrawn, and that this amendment/response be entered on the record and treated as a response to a *non-final* Office Action. In Applicants' response filed on 12/21/2005, Applicants argued that the rejection did not track Applicants' claim language, and that the rejection appeared to have been "cut and pasted" from the parent application. The Examiner has responded to this argument by explaining that the only common language between the Office Action in this application and the Office Action in the parent application was the addressing of the independent claims (Final Office Action, pp. 5-6).

Applicants appreciate the Examiner's explanation. However, Applicants respectfully submit that even though the Examiner may have in fact correctly read and understood Applicants' claims, the Examiner's remarks in the initial Office Action (mailed on 7/19/2005) still did not track the language in Applicants' claims, particularly with respect to the limitation argued in the first complete paragraph on page 3 of Applicants' response filed on 12/21/2005 (i.e., customizing a *dialog* at an application level, based on a characteristic automatically detected during the dialog in real time, wherein the characteristic is not uniquely indicative of . . .). Consequently, Applicants did not have a fair opportunity to understand and directly address the Examiner's rationale for the rejection in their response to the initial Office Action.

The Examiner does address that claim limitation somewhat more directly in the present Final Office Action, which Applicants appreciate. However, because this Final Office Action is

Applicants' first opportunity to see (at least somewhat) how the Examiner is reading Ladd on that claim limitation, the present Office Action should not have been made final. Applicants respectfully request, therefore, that in the interest of fairness, the finality of the present Office Action be withdrawn, and that this amendment/response be entered on the record and treated as a response to a *non-final* Office Action.

#### Discussion of Rejections

Claims 1-8, 13, 14, 17-39, 44, 45, and 48-60 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent no. 6,493,671 of Ladd et al. ("Ladd"). Claims 9-12, 15, 16, 40-43, 46 and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ladd in view of U.S. Patent no. 5,854,999 of Hirayama.

#### Claims 1 and 29

Claims 1 and 29 have been amended essentially to incorporate the limitations of dependent claim 20 (now canceled) as well as additional limitations. Claim 1 now recites:

1. (Currently amended) A method comprising:
  - establishing a speech-based dialog between a person and a machine during a call, wherein the person uses a communication device to speak to the machine via a communication channel during the call;
  - automatically detecting a characteristic during the dialog in real time, **wherein the characteristic is a characteristic of the person, the communication device, the communication channel, or an environment in which the person is located during the dialog, but the characteristic does not uniquely identify the person, the communication device, or any user account;** and
  - selecting a destination to which the call should be routed, based on the detected characteristic, and not based on the meaning of any speech or the failure to recognize any speech during the dialog. (Emphasis added.)**

Ladd does not disclose or suggest such functionality. In the Final Office Action, the Examiner contended that Ladd discloses *selecting a destination to which the call should be*

*routed, based on the detected characteristic*, at col. 15, line 30 – col. 16, line 9 (Office Action, pp. 3-4). However, the cited section of Ladd does *not* disclose or suggest this functionality, nor is such functionality disclosed or suggested anywhere else in Ladd. The cited section of Ladd discloses selecting or dynamically generating a grammar for a dialog with the user (e.g., col. 15, lines 30-61). It also discloses selecting an appropriate error message to play to the user if there are recognition problems (e.g., col. 15, line 64 to col. 16, line 19). However, the well-known functionality of guiding or directing a particular dialog by using prompts and the user's speech, such as disclosed in Ladd, is not to be confused with call *routing*, i.e., *selecting a destination* to which the call should be routed, as recited in claim 1.

Even assuming *arguendo* Ladd somewhere discloses some form of call routing, there is still no hint in Ladd of routing a call *based on* a characteristic of the person, the communication device, the communication channel, or an environment in which the person is located during the dialog, where the characteristic does *not* uniquely identify the person, the communication device, or any user account, *and* where the selection is *not based on the meaning of any speech or the failure to recognize any speech during the dialog*.

For at least these reasons, therefore, claims 1 and 29 and all claims which depend on them are believed to be patentable over the cited art.

#### Claims 31 and 60

Claims 31 and 60 have been amended; however, the amendment is submitted only to make the language of those claims clearer, not in response to the rejections or to comply with any requirement of patentability. No amendment is believed to be necessitated by the cited art, for the following reason.

Claim 31 includes the recitation, "examining each *of a plurality of* audio-based dialogs . . . between a person and a machine, to automatically detect a characteristic for at least some of the dialogs . . . wherein the characteristic does not uniquely identify the person, the

communication device, or any user account; and generating an *overall characterization of the dialogs* with respect to the characteristic” (emphasis added). Thus, claim 31 in effect relates to a *group* analysis and characterization of multiple human-machine dialogs. Claim 60 includes similar limitations.

Ladd does not disclose or suggest examining a *plurality* of dialogs to automatically detect a characteristic, and then generating an *overall characterization of the dialogs* with respect to the characteristic. (It is noted that the Office Action grouped claims 31 and 60 with claims 1 and 29 and, therefore, did not take into account the differences between claims 31 and 60, on one hand, and claims 1 and 29 on the other hand.)

For at least these reasons, therefore, claims 31 and 60 and all claims which depend on them are believed to be patentable over the cited art.

#### Claim 61

Claim 61 (new) is similar to original claim 1, with the addition of limitations from dependent claim 24 (now canceled), and other limitations. Thus, claim 61 is similar to claim 1 as amended above, but rather than reciting selecting a destination for the call based on the characteristic, recites *dynamically customizing the call flow* of the dialog *for the person* during the dialog, based on the detected characteristic, and *not based on the meaning of any speech or the failure to recognize any speech during the dialog*. So for example, the system might detect that a caller is frustrated based on a characteristic of the caller’s voice (other than what the caller is saying) and, therefore, the system might modify the call flow during the dialog in an attempt to reduce the caller’s frustration. See Applicants’ specification at, e.g., paragraph [0058].

Ladd does not disclose or suggest *dynamically customizing* the call flow of a dialog for the person *during the dialog*, much less doing so *not based on* the meaning of any speech or the failure to recognize any speech during the dialog, but based *on* a characteristic (detected

automatically during a call in real time) of the person, the communication device, the communication channel, or an environment in which the person is located during the dialog, where the characteristic does *not* uniquely identify the person, the communication device, or any user account.

Ladd discloses the well-known functionality of guiding a particular human-machine dialog *based on what the user says*. Therefore, to the extent the Examiner might interpret that functionality to be “dynamically customizing the call flow”, in Ladd it is done in response to what the caller says and, therefore, is directly contrary to the claim 61 limitation that the call flow is customized *not based on the meaning of any speech during the dialog*.

For at least these reasons, therefore, claim 61 and all claims which depend on it are believed to be patentable over the cited art.

#### Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

#### Conclusion

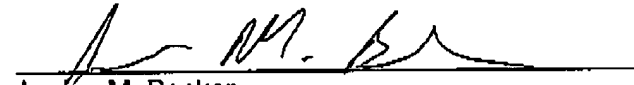
For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If there are any additional charges, please charge Deposit Account No. 02-2666.

Respectfully submitted,

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Dated: May 15, 2006

  
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